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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Centre Europe - Tiers Monde - Europe-Third World Centre, non-governmental organization in general consultative status, France Libertes : Fondation Danielle Mitterrand, Women's Human Rights International Association, non-governmental organizations in special consultative status, Indian Council of South America (CISA), International Educational Development, Inc., Mouvement contre le racisme et pour l'amitié entre les peuples, non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The lack of access to drinking water for the most vulnerable part of the population has worsened, because the Colombian State refuses to meet its obligations in this respect

The Universal Declaration of Human Rights recognizes each person's fundamental right to a decent standard of living, including access to drinking water and sanitation.

Since then, this subject has become a priority within the framework of various instruments of International Human Rights Law, such as the International Covenant on Economic, Social and Cultural Rights ; the San Salvador Additional Protocol to the American Convention on Human Rights in the area of Economic, Social, and Cultural Rights (Art.11) ; the Convention on the Elimination of all Forms of Discrimination against Women and the General Observations n° 6, 14 and 15 of the Committee on Economic, Social and Cultural Rights.

Further, the recognition of this issue is to be found in the Resolution A/RES/64/292 passed by the United Nations General Assembly and the Resolution A/HRC/RES/15/9 adopted by the Human Rights Council.

However, according to the Report for the Universal Periodic Review of Colombia[1], the Colombian State has not guaranteed, especially in the poorest areas, access to drinking water or sanitation supply. Over 9 million people do not have access to a safe drinking water supply and over 13.5 million do not have access to sanitation. It is estimated that over 970,000 children aged from 0 to 4 years old do not have access to safe drinking water and only 49% of households have access to both supplies.

In the city of Medellin alone, 27,936[2] families no longer have access to their water supply, because they cannot afford it. Most of these families live in dismal economic and social conditions and do not have sufficient resources to keep themselves going. There are about another 33,000[3] families living in areas which are high-risk in terms of housing conditions and who have neither drinking water nor proper sanitation, although these areas are mainly populated by "displaced" people who are victims of the Colombian armed conflict.

The extreme poverty in which thousands of families live is the main cause of their lack of access to drinking water. 76% of Medellin's citizens belong to the socio-economic levels* 1, 2 and 3[4], which means that they lack many basic needs and a large proportion of them are unemployed.

Beyond the numbers, it is important to emphasize the human drama that people who do not have access to drinking water experience. Women spend most of their time looking for ways to obtain some of the precious liquid. Their children do not attend school regularly, because they also have to participate to this task or because they cannot get bathed or have a decent breakfast before leaving for school. People's dignity is thus affected, since they are reduced to dependence on other people's charity to obtain the least drop of water. The Committee on Economic, Social and Cultural Rights has recognized that the Human Right to water is essential in order to live decently and that this right is the preliminary condition to the enjoyment of other Human Rights[5].

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[1] Situation of Human Rights and Humanitarian Rights in Colombia from 2008 to 2012 Published May 2013

[2] Empresas Publicas de Medellin. Report on users, September 2013.

[3] Ibid

[4] The socio-economic levels are a tool used by the Columbian State to classify residential buildings. They include the owners' incomes and the supply of public services to their homes, amongst other data. There are 6 levels according to Columbian law, going from level 1 which is the lowest to level 6 which is the highest.

[5] Quality of Life Survey in 2011. Published by the Medellin City Council. Nominal questions which refer to the application of the International Pact for Economic, Social and Cultural Rights. General Observation number 15 (2002), E/C.12/2002/11

It is important to point out that the company which is responsible for the public services brought to housing in Medellin is a state-run company known as one of the best-run companies in Latin America. In 2012, the EPM group (Empresas Publicas de Medellin) made a net profit of 903 billion US dollars[6]. So, while this company is expanding in the high-risk areas of the city, poverty is increasing and the State sits back and refuses to enstate an efficient policy for guaranteeing poor people's access to water supply and basic sanitation, which is vital for every human being.

Articles 2, 311, 365 and 366 of the Colombian Constitution specify that social services are closely linked to the State's social agenda and that their main objective is to find solutions to people's needs in terms of health, education, safe environment and drinking water. In this text, towns are defined as territorial entities whose main obligation is to ensure water supply and basic sanitation to each and every inhabitant of its territory. So, it's up to each town as a responsible entity in this political and administrative division of the State, to supply public services.

The Constitutional Court, which is the highest institution in charge of the protection of fundamental rights, has several times asked the State to respect Human dignity and take the necessary measures, in order to enable the poorest and most exposed people to gain access to the basic services which are water and sanitation.

So the Court drew up the T-546 the following decision, in 2009:

"This court forbids companies in charge of supplying services to homes from cutting off water supplies in homes where there are children under 18; when parents (who are the people directly responsible for them) of children under 18 do not have the financial capacity to pay for the public services to their homes, this puts the children in a very fragile position. When families, or persons responsible for the child or children, are not in a position to supply themselves with the absolute minimum amount of water, it is up to the State to guarantee this supply."

The Court stipulated, with the T-717 decision in 2010, that this company (the Medellin Water Board) and the City Council must allow people with very low incomes to access these services and this right may not be subordinate to the financial capacity of the customers. This applies, especially when it concerns people who are in such dire straits that they can no longer access either of these services or, indeed, any other fundamental rights.

The jurisprudence created by the Constitutional Court has allowed the Municipal Council of Medellin to promulgate the 006 Agreement in 2011, in which there is a minimum monthly supply of 2,500 litres of drinking water guaranteed to people who are level 1 and 2 with Sisben registration[7]. Although this generosity might be considered to be an advance in the protection of the weakest, it is only a small progress, since it doesn't cover nor include people whose homes have been cut off from their supply system.

If the city of Medellin refuses to take specific sectors into account in its plan of public spending, it will contribute, de facto, to the decline in living conditions and the marginalization of its inhabitants. It will also contribute to the privatization of public property such as drinking water. It will lead to a situation where most poor people will only be able to depend on their financial situation to access (or not) basic services. At the same time, the State's responsibility won't be put into question, when these people's rights are denied. If the EPM company restored the supply of drinking water to those people who are cut off, due to non-payment, it would cost them about 32 billion pesos[8]. This represents less than 0.6% of their profit forecast for 2014, which have been estimated at 5.5 trillion pesos[9].

We hereby ask the Colombian State to:

- Respect the Human Right to access to drinking water and sanitation.

[6] "El Tiempo" newspaper, dated 23rd April 2013.

[7] Method of identifying poverty and of focalising priorities.

[8] http://mesainterbarrialdedesconectados.blogspot.com/2012/02/httpcjlibertad.html#more

[9] http://www.medellin.gov.co/irj/portal/ciudadanos?NavigationTarget=navurl://db3bf72492bb12149471ade27cae0491

- Honour the decisions of the Constitutional Court, such as the 2009 T-546 and the 2010 T-717, which demand the protection of our Human Right to drinking water.
- Protect children's access to basic services, such as drinking water and sanitation.
- Make sure that adequate budgets are assigned by law to promote access to public services in all households,
- Endeavour to stop discriminating poor families regarding their access to drinking water, which is their Human Right.
- Take steps to effective access to the right to drinking water and that access is progressive, since the maximum of available resources will be devoted to solving this problem.

Our organizations appeal:

- The Special Rapporteur on the human right to safe drinking water and sanitation
- The Special Rapporteur on adequate housing
- The Special Rapporteur on extreme poverty and Human Rights
- The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- The Independent Expert on human rights and the environment

to pay special attention to the serious and repeated violations of rights of persons who do not benefit from public services at home.

Asociación española para el derecho internacional de los derechos humanos (AEDIDH), Association France Amérique Latine (FAL) and Association of International Lawyers NGO(s) without consultative status, also share the views expressed in this statement.